

Remarks

Claims 2-9, 11-18, and 20-22 are pending.

The Examiner has rejected claims 2-9, 11-18, and 20-22 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Each of the independent system claims 2, 7, and 20 has been amended to recite structural elements (e.g., a tangible memory and a processor; see, e.g.: ¶ 14 - RAM 28; ¶ 15 - digital camera and/or image processing software; ¶ 17 - processor 42; ¶ 20 - integrated in hardware or software form). For at least this reason, the rejection of independent claims 2, 7, and 20 under 35 U.S.C. § 101 now should be withdrawn. Claims 3-6 depend from claim 2, claims 8 and 9 depend from claim 7, and claim 21 depends from claim 20. Therefore, each of claims 3-6, 8, 9, and 21 is directed to patent-eligible subject matter for at least the same reasons.

Each of the independent method claims 11, 16, and 22 has been amended and defines patent-eligible subject matter because it is tied to a "particular machine" (namely, a "processor" that performs the novel/nonobvious elements of the method defined by the claim; see, e.g.: ¶ 15 - digital camera and/or image processing software; ¶ 17 - processor 42; ¶ 20 - integrated in hardware or software form). Since the subject matter defined in each of the independent claims 11, 16, and 22 is tied to a "particular machine," it meets the Office's own particular standard for determining patent-eligible subject matter under 35 U.S.C. § 101. It is noted that the performance of the novel/nonobvious elements of claims 11, 16, and 22 by the processor does not constitute a recitation of an incidental physical limitation, such as a data gathering, field of use limitations, or post-solution activity. Instead, the performance of these elements is essential to the claimed method and, therefore, is sufficient to limit the scope of the claim such that it would not wholly pre-empt all uses of an abstract principle (see In re Bilski, ___ F.3d ___, 2008 WL 4757110, 88 USPQ2d (BNA) 1385 (Fed. Cir. Oct. 30, 2008)).

For at least the reasons explained above, each of the independent claims 11, 16, and 22 defines patent-eligible subject matter and therefore the rejection of these claims under 35 U.S.C. § 101 should be withdrawn.

Claims 12-15 depend from claim 11, and claims 17 and 18 depend from claim 16. Therefore each of the claims 12-15, 17, and 18 is directed to patent-eligible subject matter for at least the same reasons explained above in connection with independent claims 11, 16, and 22.

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For the reasons explained above, all of the pending claims are now in condition for allowance and should be allowed.

Charge any excess fees or apply any credits to Deposit Account No. 08-2025.

Respectfully submitted,

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